

Notice of Allowability

Application No.

10/052,297

Applicant(s)

CALDWELL ET AL.

Examiner

Eduardo C. Robert

Art Unit

3732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.


1. ☒ This communication is responsive to amendment filed on 4/12/04.
2. ☒ The allowed claim(s) is/are 1-13.
3. ☒ The drawings filed on 18 January 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/12/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Eduardo C. Robert
Primary Examiner
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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In claim 12, line 3, "5" has been deleted. It is noted that this appears to be a minor typographical error.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose, or suggest, an access port device having a first flexible sleeve with proximal and distal ends; a securing device attached to the distal end of the first sleeve; a second flexible sleeve attached to the proximal end of the first sleeve, wherein the second sleeve includes an entry opening adjacent the proximal end of the first sleeve and an exit opening positioned a spaced distance from the entry opening; an inflatable chamber formed between the first and second sleeves; and a third flexible sleeve attached to at least one of the first sleeve and second sleeve, wherein the third sleeve includes an annular elastic band positioned between the entry and exit openings of the second sleeve as set forth in claim 1.

Furthermore, no references, or reasonable combination thereof, could be found which disclose, or suggest an access port device having a first flexible sleeve; a securing device attached to a distal end of the first sleeve; a second flexible sleeve attached to a proximal end of the first sleeve, wherein second sleeve has an entry opening adjacent to the proximal end of the first sleeve and an exit opening positioned a spaced distance from the entry opening; an inflatable chamber between the first and second sleeves; an elongated exit opening seal mounted on the second sleeve at the exit opening, wherein the exit opening seal is positioned along an exit opening seal plane extending through the entry opening and the exit opening of the second sleeve; and a second sleeve retraction prevention means including at least one transverse wing extending transverse to the exit opening seal plane as set forth in claim 6.

It is noted that Patent WO 9522289 is very close to claim 6, however, the Patent WO 95/22289 does not disclose that what can be considered the wings, e.g. 56 (see Figure 14), do not extend transverse to the exit opening seal plane. Actually, the wings 56 appear to extend in the same plane of the exit opening seal plane, i.e. a plane that extend from the entry opening through an exit opening and along the exit opening seal, e.g. 55 and/or 102, as shown in Figure 14(I).

EXAMINER'S AMENDMENT

Priority

Applicants have complied with the requirement for receiving the benefit of an earlier filing date under 35 U.S.C. 120 to the PCT application PCT/IE/00/00092 filed on 07/28/2000 (see Applicant's Amendment filed on April 12, 2004, page 2, and copy of the international

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application attached to the Amendment filed on April 12, 2004). The benefit of the earlier filing date under 35 U.S.C. 120 to the PCT application **has been acknowledged**.

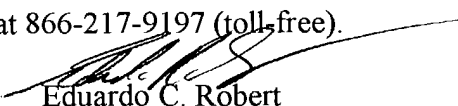
Also, applicants have complied with the requirement for the benefit under 35 U.S.C. 119(b) and **it has been acknowledged**.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eduardo C. Robert whose telephone number is 703-305-7333. The examiner can normally be reached on Monday-Friday, 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on 703-308-2582. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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E.C.R.